

AMENDED IN SENATE MARCH 10, 2016

Senate Constitutional Amendment

No. 1

**Introduced by Senators Lara and Cannella
(Coauthor: Senator Anderson)**

December 4, 2014

Senate Constitutional Amendment No. 1—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by ~~amending, repealing, and adding~~ *amending* Section 9 of Article IX thereof, relating to the University of California.

LEGISLATIVE COUNSEL'S DIGEST

SCA 1, as amended, Lara. University of California: ~~legislative control.~~ *terms of regents.*

Existing provisions of the California Constitution provide that the University of California constitutes a public trust, and require the university to be administered by the Regents of the University of California, a corporation in the form of a board, with full powers of organization and government, subject to legislative control only for specified purposes. ~~These provisions require that corporation to have all powers necessary or convenient for the effective administration of its trust.~~

~~This measure would repeal on January 1, 2017, the constitutional provisions relating to the university and the regents, and would require the university and the regents to be continued in existence subject to legislative control as may be provided by statute. The measure would require the Legislature to enact legislation to implement these provisions, but would prohibit the Legislature from enacting any law that restrains academic freedom, as defined, or imposes educational or curricular requirements on students enrolled at the University of California. The~~

~~measure would also require the University of California to focus its recruitment efforts on the enrollment of California residents as students of the university.~~

Existing provisions of the California Constitution provide that the regents consist of 7 ex officio members, and 18 members appointed by the Governor and approved by the Senate, a majority of the membership concurring, for 12-year terms. The California Constitution authorizes the board of regents to appoint a student or faculty member of the university, or both, to the board, as specified.

This measure would, for regents appointed by the Governor for terms commencing on or after March 1, 2017, make the duration of a term 4 years. The measure also would, commencing November 9, 2016, prohibit a person from being appointed for a term that would result in that person serving a total of more than 16 years as a regent, exclusive of service as a student or faculty regent. The measure would specify limits on the periods of service of appointive regents whose service on the board began before November 9, 2016, and who, as of January 1, 2017, have served as regents for more than 4 years.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

1 *Resolved by the Senate, the Assembly concurring,* That the
2 Legislature of the State of California at its 2015–16 Regular
3 Session commencing on the first day of December 2014, two-thirds
4 of the membership of each house concurring, hereby proposes to
5 the people of the State of California, that the Constitution of the
6 State be amended as follows:
7 ~~First— That Section 9 of Article IX thereof is amended to read:~~
8 ~~SEC. 9. (a) The~~
9 *That Section 9 of Article IX thereof is amended to read:*
10 *SEC. 9. (a) The* University of California shall constitute a
11 public trust, to be administered by the existing corporation known
12 as “The Regents of the University of California,” with full powers
13 of organization and government, subject only to that legislative
14 control as may be necessary to ensure the security of its funds and
15 compliance with the terms of the endowments of the university
16 and competitive bidding procedures as may be made applicable
17 to the university by statute for the letting of construction contracts,
18 sales of real property, and purchasing of materials, goods, and
19 services. The corporation shall be in form a board composed of

1 seven ex officio members, which shall be: the Governor, the
2 Lieutenant Governor, the Speaker of the Assembly, the
3 Superintendent of Public Instruction, the president and the vice
4 president of the alumni association of the university, and the acting
5 president of the university, and 18 appointive members appointed
6 by the Governor and approved by the Senate, a majority of the
7 membership concurring.

8 (b) (1) The terms of the members appointed prior to November
9 5, 1974, shall be 16 years; the terms of two appointive members
10 to expire as heretofore on March 1 of every even-numbered
11 calendar year, and two members shall be appointed for terms
12 commencing on March 1, 1976, and on March 1 of each year
13 thereafter; provided that no such appointments shall be made for
14 terms to commence on March 1, 1979, or on March 1 of each
15 fourth year thereafter, to the end that no appointment to the regents
16 for a newly commencing term shall be made during the first year
17 of any gubernatorial term of office. ~~The~~ *Except as set forth in*
18 *paragraph (2), the terms of the members appointed for terms*
19 *commencing on and after March 1, 1976, shall be 12 years.*

20 (2) (A) *Except as set forth in subparagraph (B) or (C):*

21 (i) *The terms of the members appointed for terms commencing*
22 *on or after March 1, 2017, shall be four years.*

23 (ii) *Commencing November 9, 2016, a person shall not be*
24 *appointed for a term set forth in this paragraph, or set forth in*
25 *paragraph (1) or (3), if the appointment would result in that person*
26 *serving a total of more than 16 years as a regent, exclusive of any*
27 *time served pursuant to subdivision (c).*

28 (B) *A member appointed before November 9, 2016, who, as of*
29 *January 1, 2017, has served as a regent for 15 or more years may*
30 *continue to serve until the expiration of his or her term or until*
31 *January 1, 2018, whichever is earlier, at which time the person*
32 *shall cease to be a regent and the Governor may appoint a new*
33 *member pursuant to subparagraph (A).*

34 (C) *A member appointed before November 9, 2016, who, as of*
35 *January 1, 2017, has served as a regent for more than four years,*
36 *but less than 15 years, may continue to serve until the expiration*
37 *of his or her term or until his or her service totals 16 years,*
38 *whichever is earlier, at which time the person shall cease to be a*
39 *regent and the Governor may appoint a member pursuant to*
40 *subparagraph (A).*

1 ~~In~~

2 (3) *In* case of any vacancy, the term of office of the appointee
3 to fill ~~such~~ *that* vacancy, who shall be appointed by the Governor
4 and approved by the Senate, a majority of the membership
5 concurring, shall be for the balance of the term for which that
6 vacancy exists.

7 (c) The members of the board may, in their discretion, following
8 procedures established by them and after consultation with
9 representatives of faculty and students of the university, including
10 appropriate officers of the academic senate and student
11 governments, appoint to the board either or both of the following
12 persons as members with all rights of participation: a member of
13 the faculty at a campus of the university or of another institution
14 of higher education; a person enrolled as a student at a campus of
15 the university for each regular academic term during his or her
16 service as a member of the board. Any person so appointed shall
17 serve for not less than one year commencing on July 1.

18 (d) Regents shall be able persons broadly reflective of the
19 economic, cultural, and social diversity of the State, including
20 ethnic minorities and women. However, it is not intended that
21 formulas or specific ratios be applied in the selection of regents.

22 (e) In the selection of the regents, the Governor shall consult
23 an advisory committee composed as follows: The Speaker of the
24 Assembly and two public members appointed by the Speaker, the
25 President pro Tempore of the Senate and two public members
26 appointed by the Senate Committee on Rules, two public members
27 appointed by the Governor, the chairperson of the regents of the
28 university, an alumnus of the university chosen by the alumni
29 association of the university, a student of the university chosen by
30 the Council of Student Body Presidents, and a member of the
31 faculty of the university chosen by the academic senate of the
32 university. Public members shall serve for four years, except that
33 one each of the initially appointed members selected by the Speaker
34 of the Assembly, the President pro Tempore of the Senate, and the
35 Governor shall be appointed to serve for two years; student, alumni,
36 and faculty members shall serve for one year and may not be
37 regents of the university at the time of their service on the advisory
38 committee.

39 (f) The Regents of the University of California shall be vested
40 with the legal title and the management and disposition of the

1 property of the university and of property held for its benefit, and
2 shall have the power to take and hold, either by purchase or by
3 donation, or gift, testamentary or otherwise, or in any other manner,
4 without restriction, all real and personal property for the benefit
5 of the university or incidentally to its conduct. However, sales of
6 university real property shall be subject to competitive bidding
7 procedures that may be provided by statute. The corporation shall
8 also have all the powers necessary or convenient for the effective
9 administration of its trust, including the power to sue and to be
10 sued, to use a seal, and to delegate to its committees or to the
11 faculty of the university, or to others, the authority or functions as
12 it may deem wise. The regents shall receive all funds derived from
13 the sale of lands pursuant to the act of Congress of July 2, 1862,
14 and any subsequent acts amendatory thereof. The university shall
15 be entirely independent of all political or sectarian influence and
16 kept free therefrom in the appointment of its regents and in the
17 administration of its affairs, and no person shall be debarred
18 admission to any department of the university on account of race,
19 religion, ethnic heritage, or sex.

20 (g) Meetings of the Regents of the University of California shall
21 be public, with exceptions and notice requirements as may be
22 provided by statute.

23 ~~(h) This section shall become inoperative on January 1, 2017,~~
24 ~~and as of that date is repealed.~~

25 ~~Second—That Section 9 is added to Article IX thereof, to~~
26 ~~read:~~

27 ~~SEC. 9. (a) The University of California is hereby continued~~
28 ~~in existence in the state government, and is subject to legislative~~
29 ~~control as may be provided by statute.~~

30 ~~(b) The University of California shall be administered by the~~
31 ~~existing corporation known as “The Regents of the University of~~
32 ~~California,” which is hereby continued in existence in the state~~
33 ~~government, and is subject to legislative control as may be provided~~
34 ~~by statute.~~

35 ~~(c) (1) The Legislature shall enact legislation to implement~~
36 ~~this section.~~

37 ~~(2) Notwithstanding subdivisions (a) and (b), or any other~~
38 ~~provision of this Constitution, the Legislature shall not enact any~~
39 ~~law that restrains academic freedom within the University of~~

- 1 ~~California or imposes educational or curricular requirements on~~
2 ~~students enrolled at the University of California.~~
3 ~~(3) As used in this subdivision, “academic freedom” means the~~
4 ~~freedom to discuss all relevant matters in the classroom, to explore~~
5 ~~all avenues of scholarship, research, and creative expression, and~~
6 ~~to speak or write without institutional discipline or restraint on~~
7 ~~matters of public concern as well as matters related to professional~~
8 ~~duties of faculty and staff and the functioning of the university.~~
9 ~~(d) The University of California shall focus its recruitment~~
10 ~~efforts on the enrollment of California residents as students of the~~
11 ~~university.~~
12 ~~(e) This section shall become operative on January 1, 2017.~~